IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 117 OF 2005
IN
SUMMARY SUIT NO.3578 OF 2004

Meera Maharam Bhatt ..Plaintiff

Vs.

Dhanesh Harkishandas Ghadially
and Anr. ..Defendants

Mr.S.S.Joshi for the plaintiff

Mr.K.K.V.Kurup for defendant no.1 and 2

CORAM : S.U.KAMDAR, J
DATED : 10TH JANUARY, 2006

P.C.:

1. The present suit is filed on two promissory notes which are annexed at Ex.A and B to the plaint. The said promissory notes are for the sum of Rs.2,50,000/- and Rs.80,000/- with interest thereon aggregating to Rs.3452/- and Rs.1104/- as on the date of the suit. A further interest @ 18% p.a. is also claimed from the date of the suit till payment and/or realisation. It is the case of the plaintiff that the notice of demand was sought and demand was issued for payment of the aforesaid amount which is covered by demand promissory notes.

However, inspite of the same no payment was made, on the contrary false story of sale of flat has been put up in letter dt.19.9.04. In affidavit in reply to the Summons for Judgement Defendants have contended that they have made payment to the plaintiff for sum of Rs.75000. Reliance has been placed on letter dt.9.7.04 addressed by the defendant to the Corporation Bank in which it has been interalia alleged that amount of Rs.25000 each has been deposited in the account of the plaintiff on 9.1.04, 10.2.04 and 11.3.04 and a slip has been produced in respect of account no.10747. The learned counsel for the plaintiff has produced before me a statement of account issued by the Corporation Bank in respect of account no.015747 and on perusal of the account which is for the period of 1.10.03 to 31.3.04 it is clear that there is no such payment made of Rs.25000 each as alleged on 9.1.04, 10.2.04 and 11.3.04. Thus, the statement made in the letter dt.9.7.04 is totally false. Apart therefrom in respect of the slip which has been produced of account no.10747 interalia claiming to have deposited an amount of Rs.25000, the plaintiffs have produced a letter

from the Corporation Bank which states that the Savings Account no.10747 in the Corporation Bank does not pertain to the plaintiffs at all.

2. Thus, in the light of the aforesaid, it is obvious that the defence sought to be raised by the defendant as mentioned in affidavit in reply as well as letter dt.9.7.04 which has been produced by the learned counsel for the defendant is totally bogus and frivolous. However, with a view to give an opportunity to the defendants to defend the suit, I direct the defendants to deposit a sum of Rs. 3,35,000/- within 4 weeks failing which plaintiffs will be entitled to decree. If the said amount is deposited the Prothonotary and Senior Master is directed to invest the same in any Nationalised Bank in Fixed Deposit initially for a period of 3 years and then renew the same from time to time till further orders of this court. If the amount is deposited then suit is to be transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from the date of deposit of the said amount. Affidavits, list of documents to be filed

within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.